

# CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number \_\_\_\_\_

Meeting Type: Regular

Meeting Date: 12/15/2011

Action Requested By:  
Public Works

Agenda Item Type  
Resolution

Subject Matter:

Agreement with APAC Mid-South, Inc.

Exact Wording for the Agenda:

Resolution authorizing the Mayor to amend the contract with APAC Mid-South, Inc. for Resurfacing of Residential Streets 2011-Phase I, Project No. 65-11-RR02, as adopted by Resolution No. 11-689 of September 8, 2011, by Change Order No. 1.

11-689

**Note: If amendment, please state title and number of the original**

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

Change Order is needed to close-out project. Change Order decreases contract amount by \$197,741.42. Account No. 07-7300-0305-8115

Associated Cost:

Budgeted Item: Select...

MAYOR RECOMMENDS OR CONCURS: Select...

Department Head:

*Terry Hatfield / Cynthia Hyman*

Date: *12-5-11*

# ROUTING SLIP

## CONTRACTS AND AGREEMENTS

Originating Department: **Public Works**

Council Meeting Date: **12/15/2011**

Department Contact: **Terry Hatfield**

Phone # **256-883-2944**

Contract or Agreement: **Change Order No. 1**

Document Name: **APAC-Resurf of Res. St. 2011 PH 1 Proj. No. 65-11-RR02**

City Obligation Amount: **(\$197,741.42)**

Total Project Budget: **\$629,423.49**

Uncommitted Account Balance: **0**

Account Number: **07-7300-0305-8115**

### Procurement Agreements

<b><u>Title 39</u></b>	<b><u>Competitive</u></b>
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### Grant-Funded Agreements

<b><u>Not</u></b> <b><u>Applicable</u></b>	<b>Grant Name:</b>
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Department	Signature	Date
1) Originating	<i>Terry Hatfield / Cynthia / [unclear]</i>	<i>12-5-11</i>
2) Legal	<i>[Signature]</i>	<i>12-5-11</i>
3) Finance	<i>[Signature]</i>	<i>12/7/11</i>
4) Originating		
5) Copy Distribution		
a. Mayor's office (2 copies)		
b. Clerk-Treasurer (Original & 2 copies)		
c. Legal (1 copy)		

**RESOLUTION NO. 11-\_\_\_\_\_**

**BE IT RESOLVED** by the City Council of the City of Huntsville, Alabama that the contract with APAC Mid-South, Inc. adopted and approved on the 8th day of September, 2011, by the City Council of the City of Huntsville, Alabama by Resolution No. 11-689, is hereby amended as is reflected on Change Order #1 attached hereto.

**BE IT FURTHER RESOLVED** that the total contract amount be and hereby is amended from EIGHT HUNDRED TWENTY-SEVEN THOUSAND ONE HUNDRED SIXTY-FOUR AND .91/100 DOLLARS (\$827,164.91), to SIX HUNDRED TWENTY-NINE THOUSAND FOUR HUNDRED TWENTY-THREE AND .49/100 DOLLARS (\$629,423.49), including this change order, a decrease of ONE HUNDRED NINETY-SEVEN THOUSAND SEVEN HUNDRED FORTY-ONE AND .42/100 DOLLARS (\$197,741.42). Said change order is substantially similar in words and figures as that document attached hereto and identified as "Change Order No. 1 to Contract with APAC Mid-South, Inc. for Resurfacing of Residential Streets 2011-Phase I, Project No. 65-11-RR02, as adopted by Resolution No. 11-689 of September 8, 2011" consisting of three (3) pages plus one (1) additional page consisting of Power of Attorney, and the date of December 15, 2011, appearing on the margin of the first page, together with the signature of the President of the City Council, and an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

**ADOPTED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
President of the City Council of  
the City of Huntsville, Alabama

**APPROVED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2011.

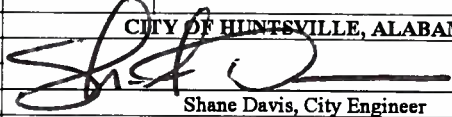
\_\_\_\_\_  
Mayor of the City of Huntsville,  
Alabama

# FINAL CHANGE ORDER REQUEST

OWNER City of Huntsville			ARCHITECT/ENGINEER NONE			CONTRACTOR APAC Mid-South, Inc.		
DATE 12/15/2011			CHANGE ORDER NO. 1					
PROJ. NAME & NUMBER:			Resurfacing of Residential Streets 2011-Phase I, Project# 65-11-RR02					
NEW NEGOTIATED ITEMS								
ITEM	DESCRIPTION	QUANT	UNIT	UNIT PRICE			EXT AMT.	
TOTAL NEW NEGOTIATED ITEMS								
OVERRUN ITEMS								
ITEM	DESCRIPTION	QUANT	UNIT	UNIT PRICE			EXT AMT.	
1	424A Superpave	288.8	Ton	\$65.39			\$18,884.63	
2	Milling 0 to 2"	4088.50	SY	\$0.53			\$2,166.91	
5	Solid Cl 2 Traffic Stripe	0.183	MI	\$2,400.54			\$439.30	
7	Broken Cl 2 Traffic Stripe	0.007	MI	\$1,200.26			\$8.40	
9	Traffic Control Markings	509.00	SY	\$6.12			\$3,115.08	
54	424A Superpave	16.85	Ton	\$82.80			\$1,395.18	
58	424A Superpave	9.49	Ton	\$67.84			\$643.80	
							\$0.00	
TOTAL OVERRUN ITEMS							\$26,653.30	
UNDERRUN ITEMS								
ITEM	DESCRIPTION	QUANT	UNIT	UNIT PRICE			EXT AMT.	
3	Basefailures	-120	SY	\$39.03			-\$4,683.60	
4	Pavement Markers	-138	EA	\$4.51			-\$622.38	
6	Solid Temp Traffic Stripe	-0.421	MI	\$753.29			-\$317.14	
8	Broken Temp. Traffic Stripe	-0.780	MI	\$703.07			-\$548.39	
10	424A Superpave	-228.96	Ton	\$61.48			-\$14,076.46	
11	Milling 0 to 2"	-1178.17	SY	\$0.52			-\$612.65	
12	Basefailures	-27.70	SY	\$39.03			-\$1,081.13	
13	424A Superpave	-59.32	Ton	\$83.95			-\$4,979.91	
14	Milling 0 to 2"	-1613.11	SY	\$0.52			-\$838.82	
15	Basefailures	-60.00	SY	\$39.03			-\$2,341.80	
17	424A Superpave	-505.00	Ton	\$61.87			-\$31,244.35	
18	Milling 0 to 2"	-3916.33	SY	\$0.52			-\$2,036.49	
19	Basefailures	-180.00	SY	\$39.03			-\$7,025.40	
20	Speed Tables	-5.00	EA	\$2,297.71			-\$11,488.55	
21	Manhole Risers	-5.00	EA	\$112.73			-\$563.65	
22	424A Superpave	-93.61	Ton	\$72.51			-\$6,787.66	
23	Milling 0 to 2"	-2055.00	SY	\$0.52			-\$1,068.60	
24	Basefailures	-60.00	SY	\$39.03			-\$2,341.80	
26	424A Superpave	-171.25	Ton	\$69.57			-\$11,913.86	
27	Milling 0 to 2"	-2052.23	SY	\$0.52			-\$1,067.16	
28	Basefailures	-60.00	SY	\$39.03			-\$2,341.80	
29	Manhole Risers	-2.00	EA	\$112.73			-\$225.46	
30	424A Superpave	-104.13	Ton	\$74.64			-\$7,772.26	
31	Milling 0 to 2"	-1988.45	SY	\$0.52			-\$1,033.99	
32	Basefailures	-60.00	SY	\$39.03			-\$2,341.80	
33	Manhole Risers	-2.00	EA	\$112.73			-\$225.46	
34	424A Superpave	-15.30	Ton	\$69.50			-\$1,063.35	
35	Milling 0 to 2"	-1748.11	SY	\$0.52			-\$909.02	
36	Basefailures	-60.00	SY	\$39.03			-\$2,341.80	
37	Manhole Risers	-2.00	EA	\$112.73			-\$225.46	
38	424A Superpave	-21.00	Ton	\$91.68			-\$1,925.28	
39	Milling 0 to 2 "	-6.00	SY	\$0.53			-\$3.18	
40	Basefailures	-60.00	SY	\$39.03			-\$2,341.80	
41	Manhole Risers	-2.00	EA	\$112.73			-\$225.46	
42	424A Superpave	-12.42	Ton	\$88.65			-\$1,101.03	
43	Milling 0 to 2 "	-1276.03	SY	\$0.52			-\$663.54	
44	Basefailures	-150.00	SY	\$39.03			-\$5,854.50	
46	424A Superpave	-53.87	Ton	\$84.21			-\$4,536.39	
47	Milling 0 to 2 "	-862.46	SY	\$0.52			-\$448.48	
48	Basefailures	-164.58	SY	\$38.49	Page 1		-\$6,334.68	

[illegible]



<b>OWNER</b>		<b>ARCHITECT/ENGINEER</b>		<b>CONTRACTOR</b>	
City of Huntsville		NONE		APAC Mid-South, Inc.	
<b>DATE</b>	12/15/2011	<b>CHANGE ORDER NO.</b>	1		
<b>PROJ. NAME &amp; NUMBER</b>		Resurfacing of Residential Streets 2011-Phase I, Project# 65-11-RR02			
<b>TERMS:</b> As a condition of this contract, pursuant to 8 U.S.C. §1324a, APAC Mid-South, Inc., hereby certifies that it has not knowingly employed, recruited, referred for a fee, contracted with an unauthorized alien, with respect to employment in the United States. Further, APAC Mid-South, Inc. hereby certifies that it has enrolled in the designated employment eligibility verification system and will maintain enrollment throughout the term of this contract. You are hereby authorized, subject to the provisions of your contract, to make the following changes thereto in accordance with this Change Order Request and supporting documents and to furnish the necessary labor, materials and close-out project					
<b>THIS CHANGE ORDER SUBMITTED FOR REVIEW AND APPROVAL. JUSTIFICATION IS AS FOLLOWS:</b>					
		Emergencies arising during the course of work.			
X		Minor changes of total monetary value and incidental to the original contract necessitated by unforeseeable circumstances arising during the course of work and less than required for competitive bidding.			
		Change of or alternates provided for in the original bidding where there is no difference in price of the Change Order from the original best bid on the alternate.			
		Change of relatively minor terms not contemplated when the plans and specifications were prepared and the project was bid and which are in the public interest and do not exceed 10% of the Contract Price.			
<b>TOTAL ADDITION OR DEDUCTION TO CONTRACT PRICE (NOTE: Numbers in parentheses are deductions). (See attached sheet for line item breakdown of change order costs.)</b>					
For This Change Order		1	Deduct		-\$197,741.42
Original Contract Price					\$827,164.91
Net Total Previous Change Orders					\$0.00
Previous Revised Contract Price					\$827,164.91
Revised Contract Price This Date					\$629,423.49
<b>EXTENSION OF TIME</b> resulting from this Change Order is 0 additional days.					
This contract modification constitutes full and mutual accord and satisfaction for all time and all costs related to this change. By acceptance of this Contract Modification, the Contractor hereby agrees that the modification represents an equitable adjustment of the Contract, and further, agrees to waive all right to file for any further claims or changes arising out of or as a result of this change, or the accumulation of executed Contract Modifications on this Contract. The Contractor and Owner(s) hereby agree to the terms for the Change Order as contained herein.					
<b>CONTRACTOR</b>		<b>CITY OF HUNTSVILLE, ALABAMA</b>			
APAC Mid-South, Inc.		 Shane Davis, City Engineer			
(Contractor Name)					
(Authorized Representative)		Tommy Battle, Mayor			
Jerry Wall - Asst. Secretary					
<b>CONSENT OF SURETY</b>		Mark Russell, Council President			
<b>FEDERAL INSURANCE COMPANY</b>					
(Surety Name)		12/15/2011			
TINA DAVIS (Authorized Representative)					
ATTORNEY-IN-FACT		(Date)			
Page 3					



**Chubb  
Surety**

**POWER  
OF  
ATTORNEY**

**Federal Insurance Company  
Vigilant Insurance Company  
Pacific Indemnity Company**

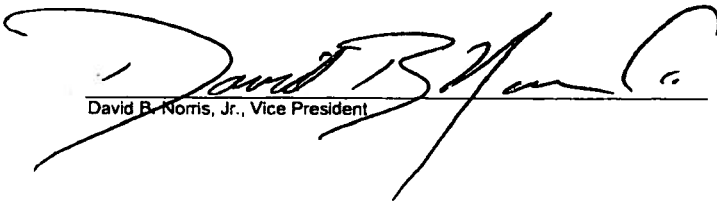
**Attn: Surety Department  
15 Mountain View Road  
Warren, NJ 07059**

**Know All by These Presents, That FEDERAL INSURANCE COMPANY, an Indiana corporation, VIGILANT INSURANCE COMPANY, a New York corporation, and PACIFIC INDEMNITY COMPANY, a Wisconsin corporation, do each hereby constitute and appoint Tina Davis, Lindsey Gates and Lisa Hall of Salt Lake City, Utah and Melanie Walker of Tulsa, Oklahoma -----**

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY have each executed and attested these presents and affixed their corporate seals on this **5th** day of **July, 2011**.

  
Kenneth C. Wendel, Assistant Secretary

  
David B. Norris, Jr., Vice President

STATE OF NEW JERSEY

ss.

County of Somerset

On this **5th** day of **July, 2011** before me, a Notary Public of New Jersey, personally came Kenneth C. Wendel, to me known to be Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY, the companies which executed the foregoing Power of Attorney, and the said Kenneth C. Wendel, being by me duly sworn, did depose and say that he is Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY and knows the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of the By-Laws of said Companies; and that he signed said Power of Attorney as Assistant Secretary of said Companies by like authority; and that he is acquainted with David B. Norris, Jr., and knows him to be Vice President of said Companies; and that the signature of David B. Norris, Jr., subscribed to said Power of Attorney is in the genuine handwriting of David B. Norris, Jr., and was thereto subscribed by authority of said By-Laws and in deponent's presence.

Notarial Seal



**KATHERINE J. ADELAAR  
NOTARY PUBLIC OF NEW JERSEY  
No. 2316685  
Commission Expires July 16, 2014**

  
Notary Public

# **CERTIFICATION**

Extract from the By-Laws of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY:

"All powers of attorney for and on behalf of the Company may and shall be executed in the name and on behalf of the Company, either by the Chairman or the President or a Vice President or an Assistant Vice President, jointly with the Secretary or an Assistant Secretary, under their respective designations. The signature of such officers may be engraved, printed or lithographed. The signature of each of the following officers: Chairman, President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached."

I, Kenneth C. Wendel, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY (the "Companies") do hereby certify that

- (i) the foregoing extract of the By-Laws of the Companies is true and correct,
- (ii) the Companies are duly licensed and authorized to transact surety business in all 50 of the United States of America and the District of Columbia and are authorized by the U.S. Treasury Department; further, Federal and Vigilant are licensed in Puerto Rico and the U.S. Virgin Islands, and Federal is licensed in American Samoa, Guam, and each of the Provinces of Canada except Prince Edward Island; and
- (iii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Warren, NJ this **5TH** day of **DECEMBER, 2011**



  
Kenneth C. Wendel, Assistant Secretary

IN THE EVENT YOU WISH TO NOTIFY US OF A CLAIM, VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT ADDRESS LISTED ABOVE, OR BY Telephone (908) 903- 3493 Fax (908) 903- 3656

e-mail: [surety@chubb.com](mailto:surety@chubb.com)